IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTIETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 746 of 1997

Between:

R.Mallaiah, s/o Veeraiah, aged about 39 years, R/o H.No.1-9-919, Adikmet, Hyderabad.

..... PETITIONER

AND

1. The Labour Court-I, Hyderabad, Rep. By its Presiding Officer.

2. The Depot Manager, Andhra Pradesh, State Road Transport Corporation of Andhra Pradesh, Bus Depot Dilsukhnagar, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or Writ in the nature of Writ of Certiorari, and after calling for the records from the 1st respondent, quash the Award in I.D.No.4 of 1992 dated 28.09.1994 in so far as it relating to denial of back wages and other monetary benefits are concerned, and consequently direct the 2nd respondent to pay the back wages and other monetary benefits to the petitioner and pass such further other order or orders as the Hon'ble Court deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.V.VISWANATHAM

Counsel for the Respondent No.2: MR.K.HARINATH (SC FOR APSRTC)

The Court made the following:

ORDER:

This writ petition is filed by the petitioner-workman aggrieved by the award of the Labour Court passed in I.D.No.4 of 1992 dated 28.09.1994 insofar as denying back wages and other monetary benefits.

2. The petitioner was appointed as a conductor in Andhra Pradesh State Road Transport Corporation (A.P.S.R.T.C.) on 25.05.1986 and was posted to Charminar depot. Thereafter, he was transferred to Mushirabad depot on 26.12.1986. While he was working in the second respondent depot, on the route of Saroornagar to Tallagadda on 28.02.1990 at 22.00 hours, a check was conducted at Dilshuknagar point. The checking Officials found number of irregularities and therefore, the petitioner was charge sheeted with all those irregularities, framing as many as four charges. Thereafter, a domestic enquiry was conducted and the Enquiry Officer found that the petitioner was guilty of the said charges, as a result of which, an order of removal was passed by the Corporation on 22.08.1990. The said order was confirmed in appeal and review, by orders dated 25.01.1991 and 14.10.1991 respectively. Thereafter, the petitioner moved the Labour Court, raising an industrial dispute. The Labour Court, after considering the evidence and the rival contentions, gave a finding that charges No.2 and 3 have been established though

benefit of doubt was given to the petitioner with reference to charges 1 and 4. Thereafter, the Labour Court, considering circumstances and the fact that the petitioner was out of service for more than 4 years, ordered his reinstatement with continuity of service, but denied back wages as well as other monetary benefits. Hence, the present writ petition.

3. Insofar as denial of back wages and other monetary benefits, the learned counsel for the petitioner contended that the Labour Court was not justified in denying the monetary benefits including the back wages, having found that charges No.1 and 4 are not proved against the petitioner. The learned counsel also contended that the petitioner is out of service for more than 4 years and that itself is sufficient punishment for the offences alleged to have been committed by the petitioner, therefore there was no justification for further denying the monetary benefits to the petitioner.

4. The learned Standing Counsel for A.P.S.R.T.C., however, supported the order of the Labour Court insofar as denial of back wages and other monetary benefits. It is contended that there were only 25 passengers in the bus at the time of check, out of whom, for 19 passengers no tickets were issued though the petitioner had collected fare from them and even SR was closed. The said conduct clearly shows that the petitioner intended to misappropriate the fares collected from the 19 passengers. Apart from that, with reference to 1 passenger, the petitioner did not collect the fare and issue the ticket, therefore the Checking Officials have reported said irregularities. It is also stated that the petitioner left the service of the bus when the Checking Officials entered the bus and absconded thereby preventing the Checking Officials from carrying on the check. According to the learned counsel, the conduct of the petitioner also shows that he is not entitled to seek any indulgence of this Court to take any lenient view. The learned counsel relied upon a judgment of the Supreme Court in support of his contention that even the Labour Court was not entitled to re-appreciate the evidence, especially when the domestic enquiry was upheld having found that it was properly

conducted. In the light of the above, the learned counsel sought to dismiss the writ petition.

5. Heard both sides and considered the material on record.

6. Admittedly, the petitioner was found indulging in certain irregularities of non-issuing of tickets as well as non-collection of fares from the passengers. The checking Officials also found that the petitioner collected fare from 19 passengers and did not issue the tickets, but closed the SR which clearly shows that the petitioner intended to misappropriate the fares collected from 19 passengers. The Enquiry Officer found proved all the charges against the petitioner, though the Labour Court gave benefit of doubt with reference to charges 1 and 4, but found charges 2 and 3 proved against the petitioner. In the light of the said findings, the relief granted by the Labour Court itself is more than what is required to be granted to the petitioner who was indulging in certain irregularities of non-issuance of tickets to the passengers after collecting fares. In spite of such serious offence, the Labour Court has taken a lenient view and ordered reinstatement with continuity of service, but denied only the back wages and other monetary benefits. The denial by the Labour Court with reference to the monetary benefits, is perfectly justified. The petitioner is not entitled for any further relief. The petition is accordingly dismissed. No costs.

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30.07.2004

VGB

To

1. The Presiding Officer, Labour Court-I, Hyderabad,

2. The Depot Manager, Andhra Pradesh State Road Transport Corporation, Bus Depot Dilsukhnagar, Hyderabad.

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